

1                   IN THE UNITED STATES DISTRICT COURT  
2                   FOR THE DISTRICT OF MARYLAND  
3           MELVIN NEWSOME, et al.       \*       CIVIL ACTION S01-2257  
4                   Plaintiffs                   \*  
5                   vs.                               Baltimore, Maryland  
6   \*  
7           UP-TO-DATE LAUNDRY, INC,       \*       March 13, 2003  
8                   et al.                               \*  
9                               Defendants                   \*       \*       \*  
10                               \*       \*       \*       \*       \*  
11                   Deposition of HERBERT DATCHER, a witness of  
12                   lawful age, taken on behalf of the Defendants in the  
13                   above-entitled cause, pending in the District Court of  
14                   the United States for the District of Maryland, before  
15                   Dawn L. Venker, a Notary Public in and for Baltimore  
16                   County, Maryland, at 7 St. Paul Street, 15th Floor,  
17                   Baltimore, Maryland 21201, on 13th day of March, 2003.  
18                               \*       \*       \*       \*       \*  
19           APPEARANCES:  
20                               BETTY GRDINA, Esquire  
21                               PHILIP SIMON, Esquire  
                             For the Plaintiffs  
                             JEANNE M. PHELAN, Esquire  
                             For the Defendants  
ALSO PRESENT: BRAD MINETREE  
Reported By: Dawn L. Venker  
HERBERT DATCHER,

TOWSON REPORTING COMPANY  
(410) 828-4148

1

2           Q       Mr. Datcher when we were talking this  
3 morning, you indicated that you showed up at a union  
4 hearing. How did you get involved with the union at  
5 Up-To-Date?

6                   MS. GRDINA: Objection.

7           Q       You can go ahead and answer.

8           A       The union -- we got involved with the union  
9 because we weren't getting paid enough money. We were  
10 being discriminated against, and we wanted better pay,  
11 more hours, better working conditions and everything.  
12 That's how we got involved with the union.

13          Q       When you say "more hours," what does that  
14 mean?

15          A       We wanted better pay for the hours that we  
16 were working. Everyone wanted -- everyone that was in  
17 there in their different departments to be paid the  
18 same. No one to be paid more than the other person.  
19 Everybody that was in there, we wanted them to be paid  
20 the same. Whatever -- if you worked in the soil room,  
21 the soil room and dryers and the press should have

1           A       We were complaining because we were  
2     getting -- some of us who were black were getting less  
3     hours to work. Others who were Hispanic were getting  
4     more hours and they were being paid more and we were  
5     being paid less.

6           Q       Who was it that was black was getting less  
7     hours to work?

8           A       All of the black employees except for the  
9     company employees that were black that were  
10    supervisors. Under them, all of the -- all of the  
11    above that were black were being paid less.

12          Q       So it is your testimony that aside from  
13    supervisors, anybody who was a black employee was being  
14    paid less?

15          A       Supervisors were not included in this.  
16    Supervisors, if they were black, if they were white, if  
17    they were Hispanic, they were not included in the union  
18    thing. All supervisors were company people. They were  
19    not -- not included in the union. That was  
20    Up-To-Date's choice. They didn't want them included in  
21    that.

1 A There was hearing, yes.

2 Q Was there testimony taken?

3 A No, there was not.

4 Q What happened?

5 A As I stated, the only thing that I had to  
6 do and the only thing the other five individuals that  
7 we had to do was to show up. By us showing up, they  
8 stated that employees of Up-To-Date of the  
9 African-American race wanted a union and felt as though  
10 they were being discriminated against.

11 Q Who stated that?

12 A I said that's all we had to do. No one  
13 stated anything.

14 Q All you had to do was show up?

15 A All we had to do was show up.

16 Q Was there anyone other than  
17 African-American employees there?

18 A Speedy.

19 Q How is it that you found out about the  
20 hearing?

21 A The union told me about the hearing.

1 Q Did he ever come back?

2 A I never seen the guy. I never seen him no  
3 more.

4 Q Were there any other situations where you  
5 heard Brad use racial terms?

6 A I've seen Brad and heard Brad cuss people  
7 out and call them niggers, mother fuckers and things  
8 like that.

9 Q Tell me about a specific incidence.

10 A I can't say a specific incidence at these  
11 specific times, you know, when Brad said these things.  
12 Brad was hot tempered, you know. If things weren't  
13 going right for him, he would take it out on other  
14 people.

15 Q Did you ever see him take it out on a  
16 Hispanic employee?

17 A No.

18 Q Did you ever see him take it out on a white  
19 employee?

20 A No.

21 Q Were there any Hispanic or white employees

1 the plant that had a good rapport with Brad?

2 A Supervisors.

3 Q Who among the supervisors?

4 A All of them.

5 Q You indicated that -- in your answer to  
6 interrogatories that you heard Brad tell the workers in  
7 the soil room, "You mother-fucking niggers, you are  
8 working too damn slow. I should fire the lot of you."

9 A Yes, he did.

10 Q Do you remember that?

11 A Yes, I do.

12 Q When did that happen?

13 A That happened when we were up on De Soto  
14 Road, I believe it was. The order came in. Everybody  
15 was like tired. Brad came in. I don't know what he  
16 was pissed off about, but he had a bad disposition  
17 about -- started cursing and stuff. Saying all kinds  
18 of names and crazy shit, and everybody else did what  
19 they always did when Brad started talking, like, crazy  
20 shit. Just ignored his ass.

21 Q Where were you working at that time?

1           A       At that time I was working in the soil room  
2   too. I ignored Brad like everybody else did. Let him  
3   just blow over. Say what he got to say. After he  
4   gone, we continued to work. While he was there  
5   bellowing and saying what he said, I stopped and  
6   listened.

7           Q       You indicated that you heard Brad accuse  
8   Kimberly Gray, who is -- I assume, that is your wife,  
9   right?

10          A       Yes.

11          Q       Of giving blow jobs in the back of the  
12   plant?

13          A       Yes, I pulled Brad up about that. And I  
14   discussed it with Brad.

15          Q       Tell me what happened.

16          A       I discussed it with Brad and I let it go.

17          Q       No. No. I want to know what happened.

18   Did you hear --

19          A       I discussed it with Brad and I let it go.

20          Q       Mr. Datcher, please listen to the question  
21   and answer the question. The question is what did

1           A       Spear chucker. Step fletchered. Said  
2   nigger couple of times. Did you see "that boy" do this  
3   and that. Other than that, from those few times before  
4   him and his brother started arguing with each other and  
5   having their differences before -- before Dave was  
6   excluded away from the plant, I didn't hear anything  
7   else from him.

8           Q       I didn't understand what you meant by that.

9           A       By excluding him away from the plant?

10          Q       You mean when he was excluded from the  
11   plant you didn't hear anything from him?

12          A       No, you only heard from Dave when he was on  
13   the plant. It became a time when -- if Dave was there,  
14   Brad would wait till -- wait till Dave left, or if Brad  
15   was there, Dave would wait until Brad left. They  
16   didn't confront each other. They couldn't stand each  
17   other.

18          Q       What did you observe that led you to  
19   believe that they couldn't stand each other?

20          A       Brad called the police on Dave for  
21   threatening him and his mother with a gun.



1           Q       The question was did Dave use any of those  
2 terms directed toward you?

3           A       Sometimes, yes. Sometimes, no.

4           Q       Tell me about the circumstances where he  
5 used them directly towards you.

6           A       Sometimes he would like come in and say,  
7 "What's up, nigger?" Who is nigger? You know. You  
8 know my man. My man. My man. Like that. I'm like,  
9 go ahead Dave. I just wouldn't pay him no mind after  
10 that because, I mean, you know, I had a job to do, and  
11 even though these -- these things were being said, I  
12 knew I had a family to support. I just let it breeze  
13 on by.

14          Q       Are there any other circumstances where you  
15 can recall where he used any racial terms towards you?

16          A       No, I can't. No, I can't.

17          Q       Did you ever use the term nigger?

18          A       No.

19          Q       Never ever in your life?

20          A       No. I don't use it.

21          Q       Did anyone else you worked with at

1 discriminated against because of your race other than  
2 at Up-To-Date?

3 A No.

4 Q See, we didn't get a chance to talk about  
5 Nancy. Did you ever hear Nancy use racial terms?

6 A Yes.

7 Q Tell me what you heard Nancy say.

8 A We were working -- I was working on the  
9 dry -- dry linens part of the company where the girls  
10 separate the gowns and baby clothes and stuff. And  
11 Nancy said that the Hispanic workers work better than  
12 we do. Better work, hours and everything. I stopped  
13 and I asked her, I said, "Oh, Ms. Nancy, how can you  
14 say that? We all put in the same amount of work all  
15 the time. How can you say one person is lazy and  
16 another person isn't lazy?" That's how I stated it.  
17 Then after that, Brad pulled me up and said that I had  
18 better not ever talk to his mother again or I wouldn't  
19 have a fucking job. That's when I didn't say anything  
20 else to Ms. Nancy because I still wanted my fucking  
21 job.

1 MS. GRDINA: Objection. You are asking him  
2 to state a legal conclusion.

3 MS. PHELAN: I'm asking him who would be  
4 the person who was getting the hours.

5 A We all worked the same amount of hours  
6 until I was took off of the dryers and forced to work  
7 in the soil room, forced to learn how to work -- forced  
8 to work in the soil room. So while I was in the soil  
9 room, I asked to learn how to -- I asked John  
10 Fitzgerald.

11 Q Mr. Datcher, we need to focus on the  
12 question. Who are the people you are comparing  
13 yourself to with respect to loss of hours?

14 A Loss of hours. Loss of hours. Consisted  
15 of when we were at De Soto Road, and this was around  
16 the time of the union elections. My hours were  
17 dwindling down to nothing. I went from 80-some hours  
18 down to maybe 35 some weeks. One week I think it was  
19 35. Another week I think it was 30. Another week I  
20 think it was 25. I think I made 20 one week. My hours  
21 were dwindled down dramatically from being -- after I

1 signed -- after we put the open letter to Latinos out  
2 in fliers and stuff, my name was on the list, and  
3 anyone who signed this list was on the hit list by the  
4 company to get rid of them. Anything that they said or  
5 did. If they worked or moved slow or anything, the  
6 company wanted to get rid of them because they didn't  
7 want them no longer working.

8 Q Mr. Datcher, we need to focus on the  
9 question.

10 A I'm answering the question.

11 Q The question is who is it we should look to  
12 find out how many hours you lost? Who was working the  
13 hours you lost?

14 MS. GRDINA: Objection. You are asking him  
15 to answer in a legally --

16 MS. PHELAN: I'm not asking him. There is  
17 nothing wrong, Ms. Grdina, about asking him who in the  
18 plant was working the hours that he claimed should have  
19 been his.

20 MS. GRDINA: You are asking him to state a  
21 comparator, and he doesn't understand the concept.

1 Square or Bayview. Another part of Johns Hopkins.

2 Ship or boat. Pentagon.

3 Q Were Hispanic workers supervised by a  
4 different supervisor?

5 A LuLu, Roger and Sunny was the Hispanic  
6 supervisor. Elijah Sewell, he was the supervisor for  
7 the blacks. Him and Doug and John. We had different  
8 supervisors. I don't think anyone -- anyone of the  
9 black supervisors could speak Spanish. So they had  
10 their own supervisor.

11 Q And is it your testimony that the hispanics  
12 worked later than you did?

13 A They worked longer hours than we did, yes,  
14 at that time because my hours and the other people's  
15 hours in the soil room were diminished.

16 Q Were the Hispanic workers first shift  
17 workers that were working after the first shift?

18 A These workers came in the same time we came  
19 in. They were part of the second shift that I  
20 believed. The first -- the first shift of Hispanic  
21 workers, if any, at that time that worked -- on De Soto

1 Q When was that?

2 A This was in '99.

3 Q Do you recall how long she was on bed rest?

4 A Huh?

5 Q Do you recall how long she was on bed rest?

6 A The whole time she was pregnant.

7 Q The whole nine months?

8 A Yes, the whole nine months.

9 Q When was your baby born?

10 A January 2000.

11 Q You indicated in the answer to

12 interrogatories that you knew that David Minetree had a

13 handgun?

14 A Yes.

15 Q At work?

16 A Uh-huh.

17 Q Tell me how you knew that.

18 A Everyone knew that Dave had a handgun.

19 Q How did everyone know that?

20 A Because Dave said that he had a handgun,

21 and everyone knew that Dave was not a liar.

1 Q Did Dave tell you he had a handgun?

2 A Of course.

3 Q Do you remember the circumstances?

4 A He was saying how he had a handgun and how  
5 he had rifles and stuff. How he went hunting.

6 Q Did Mr. Minetree -- did Dave ever threaten  
7 you with a gun?

8 A No. Only person he ever threatened was his  
9 brother.

10 Q How do you know that?

11 A Because they argued all the time. They  
12 didn't really get along. That's why they -- Brad had  
13 Dave excluded from the property. He couldn't come on  
14 the property while Brad was on the property.

15 Q Let's focus on the question.

16 A You asked me the question.

17 Q The question is how you know that Dave  
18 Minetree threatened Brad Minetree with the gun?

19 A Because Brad said so.

20 Q You didn't see it?

21 A I didn't see it. He said so. So I